



Legislative Bulletin.....March 10, 2005

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H.R. 3—More Amendments to the Transportation Equity Act: A Legacy for Users (TEA-LU)

H.R. 3—More Amendments to the Transportation Equity Act: A Legacy for Users (TEA-LU) (Young, Don)

Order of Business: Consideration of H.R. 3 is scheduled to continue on Thursday, March 10th, subject to a structured rule (H.Res. 144), which makes the following amendments (but no additional general debate) in order.

Summary of Amendments Made in Order under Today’s Rule (H.Res. 144). Debate time indicated parenthetically:

1. Young (AK) #31 (Manager’s Amendment). (30 minutes)

- Leaves the “minimum guarantee” at the current-law 90.5% through fiscal year 2009.
- Makes ten adjustments to increase the scope (including “high priority projects”) of what is included under the “minimum guarantee” relative to last year’s TEA-LU. According to press reports, the scope will increase from last year’s 84.0% (in TEA-LU) to 92.6%. Some have argued that the scope percentage is actually not changing—that current law already has a 92.6% scope—and that the only thing changing is the funding calculation.
- Implements a new funding calculation to ensure that no state receives less funding because of this increase in scope.
- Adjusts the main programmatic funding levels in the underlying bill.
- Makes hundreds of funding and technical adjustments to existing “high priority projects” (earmarks) in the underlying bill. Some projects receive more money; some receive less.
- Adds 288 additional highway “high priority projects” (earmarks) that were not in the underlying bill. While most of these projects are funded at \$2 million or less, a significant number are much more expensive, including:
 - \$48 million for earthwork and roadway construction for the Gravina Access Project in Alaska;
 - \$34 million to reconstruct the I-30 Trinity River Bridge in Dallas, TX;
 - \$23.4 million for safety improvements to TH-169 between Virginia and Winton in Minnesota;

- \$15.75 million to study and construct highway alternatives between Orange and Riverside Counties, CA;
- \$12 million for congestion relief projects around the Texas Medical Center complex; and
- \$10 million for Anchorage, Alaska traffic congestion relief.
- Adds 24 additional transit projects (earmarks) that were not in the underlying bill. All of these new transit projects are funded at \$1.75 million or less, except for two \$8.75 million projects in Alaska.
- Rescinds \$12 billion of unobligated balances of highway and other surface transportation funds on September 30, 2009 (to help offset the increase in spending due to the new “scope” calculation, discussed above). It is not clear whether this much money would actually remain unobligated (and thus available for rescission) on September 30, 2009—or whether Congress at that time would suspend the rescission.
- Requires a Canadian or Mexican commercial motor vehicle operator to undergo background checks similar to those for U.S. operators before transporting hazardous materials in the U.S.
- Requires motor carriers, brokers, and freight forwarders to levy a fuel surcharge on the consumer when the regional priced diesel fuel, as measured by the Department of Energy, rises by at least five cents above the benchmark price per gallon (beginning at \$1.10 per gallon, subject to adjustment, as defined in the amendment). The fuel surcharge would HAVE to be passed through to the consumer.
- Requires that the federal motor carrier safety regulations apply to all interstate operations of vehicles designed to transport nine to fifteen passengers (including the driver).
- Creates several new programs, such as the Freight Intermodal Distribution Pilot Grant Program, the Rural State Emergency Medical Services Optimization Pilot Program, and a Drug-Impaired Driving Enforcement Program.
- Extends through the end of fiscal year 2009 the authority to spend money from the Highway Trust Fund and the Aquatic Resources Trust Fund and extends the excise taxes that finance the Highway Trust Fund through the end of fiscal year 2011 (in accordance with the current-law-required two-year cushion for the Trust Fund).
- Terminates the requirement that a portion of the motorboat and small engine fuel taxes be retained in the Aquatic Resources Trust Fund.

2. Davis, Tom (VA) #29. Removes the requirement that toll rates on high-occupancy toll lanes be differentiated for low-income drivers. *(10 minutes)*

3. Burgess #27. Allows states to receive Transportation Development Credits (toll credits) on a pro rata basis for building roads with *some* non-federal funds (instead of the current requirement to use ALL non-federal funds). *(10 minutes)*

4. Burgess #26.

- Removes federal restrictions on state procurement procedures for Design-Build (D/B) contracts (contracts that provide for both the designing and the building of a project);
- Authorizes the acceptance of multiple, unsolicited proposals when permitted by state and local law;

- Permits a single consultant to do environmental work, as well as design and construction work in a single contract, subject to state review and review by the Secretary of Transportation;
- Authorizes a state to award a D/B contract prior to a final National Environmental Policy Act (NEPA) judgment (contingent on a NEPA compliance decision by the Secretary);
- Reopens the rule making process to correct inequities to states so they are not precluded from allowing proposals to include alternative technical concepts, issuing a proposal request or a notice to proceed with design work prior to EPA compliance, or proceeding with the award of a D/B contract. *(10 minutes)*

5. Issa #30. Expresses a sense of Congress that the Department of Transportation and the states should provide additional incentives (including the use of HOV lanes on state and interstate roads) to encourage the purchase and use of hybrid and other fuel efficient vehicles, “which have been proven to minimize air emissions and decrease consumption of fossil fuels.” *(10 minutes)*

6. Pascrell/LoBiondo/Menendez #16. Clarifies that this bill would not prevent states from enacting laws or issuing orders that limit the amount of money an individual, who is doing business with a state agency for a federal highway project, may contribute to a political campaign. *(10 minutes)*

7. Rogers (MI) #12. Prohibits the sale or use of a traffic signal preemption transmitter (device that changes or alters a traffic signal's phase time or sequence) by a non-government-approved person. Violators would be subject to a fine of up to \$10,000 or one year imprisonment. *(10 minutes)*

8. Pitts #13. Provides small transit systems with additional, phased-down time (through fiscal year 2009) to find alternative financial solutions to address the loss of flexibility in using certain federal transit funds. *(10 minutes)*

9. Honda #8. Provides that basic grant funds authorized under the Alcohol-Impaired Driving Countermeasures section can be used for Driving While Intoxicated Courts that seek to change the behavior of alcohol or drug dependent offenders arrested while driving under the influence. *(10 minutes)*

10. Barton #23. Provides that assessments of risks to human health or the environment, pursuant to research or studies under the surface transportation environment and planning and cooperative research program, and subsequent use of such studies, follow “sound and objective scientific practices” and describe “the weight of the scientific evidence.” *(10 minutes)*

11. Shadegg #18. Revises the formula by which funds are allocated under the Congestion Mitigation and Air Quality Improvement Program to include areas that are not in attainment for particulate matter air quality (to match the way such funds are currently allocated to areas that are not in attainment for ozone or carbon monoxide levels). *(10 minutes)*

12. Flake #25. Subtracts the amount that states receive in earmarks from their formula totals in the Surface Transportation Program through fiscal year 2009 (and thus counts earmarks toward a state's "minimum guarantee"). Apportions to states, via formula, any remaining funding that would have otherwise gone toward earmarks. *(10 minutes)*

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